

**ENTERED**

January 07, 2019

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

UNITED STATES OF AMERICA,

*Plaintiff,*

V.

17.924 ACRES OF LAND, MORE OR LESS,  
SITUATE IN CAMERON COUNTY,  
TEXAS; AND UNITED STATES OF  
AMERICA AS SUCCESSOR IN INTEREST  
TO CAMERON COUNTY IRRIGATION  
DISTRICT NO. 2, *ET AL.*,

*Defendants.*

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Case No. 1:10-cv-186

(Lead Case)

## ORDER SEVERING TRACT RGV-HRL-4016

**The United States believes that the following parties may have an interest in the property and/or just compensation affected by this Order:**

Berta Longoria Garcia

Tony Yzaguirre, Jr., Cameron County Tax Assessor-Collector;

Cameron County;

**The following tract is affected by this Order:**

RGV-HRL-4016

The Court has considered the United States of America's Unopposed Motion to Sever Tract RGV-HRL-4016. Having considered the Motion, the Court is of the opinion and finds that it is necessary to:

- (a) Sever into a separate proceeding with a new civil number a 0.040-acre portion of land identified as Tract RGV-HRL-4016 from the description of the land acquired in Tract RGV-HRL-4080;

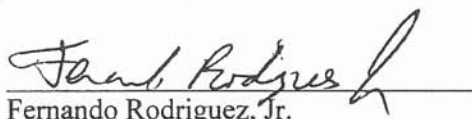
- (b) Sever the estate being taken for Tract RGV-HRL-4016 to clarify the estate being taken for Tract RGV-HRL-4016;
- (c) Provide the estimate of just compensation for Tract RGV-HRL-4016; and
- (d) Clarify as defendants all parties interested in the acquired land who were identified in title examination results received after institution of this proceeding, less those previously dismissed.

Accordingly, the Court hereby **GRANTS** the United States of America's Motion to Sever Tracts RGV-HRL-4016 from 1:10-cv-186 and **ORDERS** that RGV-HRL-4016, identified and described in the Amended Declaration of Taking attached to this Order as Exhibit 1, be severed into a new civil case number 1:19-CV-4.

The named defendants in the new civil case number will be (a) 0.040 acres of land, more or less, situated in Cameron County, Texas, (b) Berta Longoria Garcia, (c) Tony Yzaguirre, Jr., Cameron County Tax Assessor-Collector, 835 E. Levee, Brownsville, Texas, 78520, and (d) Cameron County, 964 East Harrison Street, Brownsville, TX 78520.

Upon entry of this order, the following defendant shall be terminated from Case No. 1:10-cv-186: Berta Longoria Garcia.

Signed this 7<sup>th</sup> day of January, 2019.

  
Fernando Rodriguez, Jr.  
United States District Judge

### Amendment to Declaration of Taking - 1



c. To provide the estimated just compensation for Tract RGV-HRL-4016;  
and

d. To clarify as defendants all parties interested in the acquired land who  
were identified in title examination results received after institution of this proceeding.

NOW, THEREFORE, I, Loren Flossman, Acquisition Program Manager, Wall  
Program Management Office, U.S. Border Patrol Program Management Office  
Directorate, U.S. Border Patrol, U.S. Customs and Border Protection, Department of  
Homeland Security, under the authority delegated to me by the Act of Congress approved  
November 25, 2002, as Public Law 107-296, 116 Stat. 2135 and codified at 6 U.S.C. §§  
202, 251, and 557, which transferred certain authorities of the Attorney General to the  
Secretary of Homeland Security; and by DHS Delegation No. 7010.3(II)(B), which  
delegated land acquisition authority from the Secretary of Homeland Security to the  
Commissioner of U.S. Customs and Border Protection; and by CBP Delegation 18-200,  
which further delegated land acquisition authority under \$5 million dollars to the  
Acquisition Program Manager, Wall Program Management Office, USBP Program  
Management Office Directorate, U.S. Border Patrol; do hereby amend said consolidated  
Declaration of Taking, as listed above, now as a separate proceeding, to:

1. Substitute Schedule "AA", containing a revised authority for the appropriation of  
funds, attached hereto and made a part hereof in lieu of the authority provided in  
Schedule "A" of the consolidated Declaration of Taking for said tract;
2. Schedule "B" from the consolidated Declaration of Taking will remain the same,  
but is attached hereto for reference;

3. Substitute Schedule "CC", containing a severed legal description of Tract RGV-HRL-4016, attached hereto and made a part hereof in lieu of the legal description provided in Schedule "C" of the consolidated Declaration of Taking for said tract;
4. Substitute Schedule "DD", containing a severed final survey of Tract RGV-HRL-4016, attached hereto and made a part hereof in lieu of the plat provided in Schedule "D" of the consolidated Declaration of Taking for said tract;
5. Substitute Schedule "EE", containing a clarified estate taken in Tract RGV-HRL-4016, attached hereto and made part hereof in lieu of the estate described in Schedule "E" of the consolidated Declaration of Taking;
6. Substitute Schedule "FF", containing the estimate of just compensation for Tract RGV-HRL-4016, attached hereto and made a part hereof in lieu of the estimate of just compensation described in Schedule "F" of the consolidated Declaration of Taking for said tract;
7. Substitute Schedule "GG", containing a list of parties who may have or claim an interest in the acquired land based upon the examination of the title, attached hereto and made part hereof in lieu of the list provided in Schedule "G" of the consolidated Declaration of Taking for said tract.

It is intended by this amendment that the aforesaid consolidated Declaration of Taking (as heretofore amended) is not changed, and is not intended to be changed, in any respect except as hereinabove expressly set forth.

IN WITNESS WHEREOF, the undersigned, Acquisition Program Manager, Wall Program Management Office, U.S. Border Patrol Program Management Office Directorate, U.S. Border Patrol, U.S. Customs and Border Protection, Department of

Homeland Security, hereunto subscribes his name by direction of the Secretary of the Department of Homeland Security, this 11 day of Dec, 2018 in the City of Washington, District of Columbia.



Loren Flossman  
Acquisition Program Manager  
Wall Program Management Office  
U.S. Border Patrol Program Management Office Directorate  
U.S. Border Patrol  
U.S. Customs and Border Protection  
Department of Homeland Security

**SCHEDULE "AA"**  
**AUTHORITY FOR THE TAKING:**

The property is taken under and in accordance with the Act of Congress approved on February 26, 1931, as 46 Stat. 1421 and codified at 40 U.S.C. Section 3114, and the Act of Congress approved August 1, 1888, as 25 Stat. 357 and codified at 40 U.S.C. Section 3113, and any acts supplementary thereto and amendatory thereof; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, Stat. 3009-546, 3009-554, as amended and codified at 8 U.S.C. Section 1103(b) & note; and is funded by appropriations available to execute the tactical infrastructure program of U.S. Customs and Border Protection.

**SCHEDULE "B"**  
**PUBLIC PURPOSE:**

The public purpose for which said land is taken is taken is to construct, install, operate, and maintain roads, fencing, vehicle barriers, gates, security lighting, and related structures designed to help secure the United States/Mexico border within the State of Texas.



**SCHEDULE "CC"**

**PF-225 RIO GRANDE VALLEY SECTOR  
DEPARTMENT OF HOMELAND SECURITY  
CUSTOMS AND BORDER PROTECTION**

**PROPERTY DESCRIPTION OF TRACT NO. RGV-HRL-4016  
FENCE ACQUISITION**

**BEING** a 0.040 of one acre (1,723 square feet) parcel of land, more or less, being out of the Concepcion de Carricitos Grant, the B & E Fernandez Survey, Abstract No. 16, Share No. 19, Cameron County, Texas, and being out of a called 0.68 of one acre tract designated as tract "E" conveyed to Reynaldo Garcia by deed recorded in Volume 1280, Page 879, Official Records, Cameron County, Texas, which 0.040 of one acre (1,723 square feet) parcel being more particularly described by metes and bounds as follows:

**BEGINNING** at a point having a coordinate value of N=16542105.72, E=1244031.02 for the northwest corner of the herein described tract, said point being in the west boundary line of the called 0.68 of one acre tract designated as tract "E", the east boundary line of a called 0.68 of one acre tract designated as tract "F" conveyed to Graciela Garcia by deed recorded in Volume 6219, Page 213, Deed Records, Cameron County, Texas, said point bears S 70°51'01" E, (S 70°28' E, Record), a distance of 171.54 feet and S 00°51'42" E, (South, Record) a distance of 363.01 feet from a ½" rebar found at the northwest corner of a called 0.68 of one acre tract designated as tract "G" conveyed to Berta and Jose Felipe Palomino by deed recorded in Volume 4362, Page 330, Official Records, Cameron County, Texas;

- (1) THENCE S 65°16'09" E**, departing the west boundary line of the called 0.68 of one acre tract designated as tract "E", the east boundary line of the called 0.68 of one acre tract designated as tract "F", a distance of 89.86 feet to a point for the northeast corner of the herein described tract, said point being in the east boundary line of the called 0.68 of one acre tract designated as tract "E", said point being in the west boundary line of the remaining portion of a called 9 acre tract conveyed to Adan Aron Garcia recorded in Volume 10517, Page 80, Official Records, Cameron County, Texas;
- (2) THENCE S 00°47'44" E**, (South, Record), along the east boundary line of the called 0.68 of one acre tract designated as tract "E", the west boundary line of the remaining portion of the called 9 acre tract, a distance of 22.65 feet to a ½" rebar with MDS cap set for the southeast corner of the herein described tract, said point being the northeast corner of the remaining portion of a called 40.74 acre tract conveyed to Electric Gin Company of San Benito recorded in Volume 131, Page 559, Official Records, Cameron County, Texas;
- (3) THENCE N 63°40'46" W**, (N 63°21' W, Record), along the south boundary line of the called 0.68 of one acre tract designated as tract "E", the north boundary line of the

remaining portion of the called 40.74 acre tract, a distance of 91.07 feet to a ½" rebar with M.D.S. cap set for the southwest corner of the herein described tract, the southwest corner of the called 0.68 of one acre tract designated as tract "E", the southeast corner of the called 0.68 of one acre tract designated as tract "F";

- (4) **THENCE N 00°51'42" W, (North, Record), departing the north boundary line of the remaining portion of called 40.74 acre tract, along the west boundary line of the called 0.68 of one acre tract designated as tract "E", the east boundary line of the called 0.68 of one acre tract designated as tract "F", a distance of 19.86 feet to the PLACE OF BEGINNING containing 0.040 of one acre (1,723 square feet) of land, more or less.**

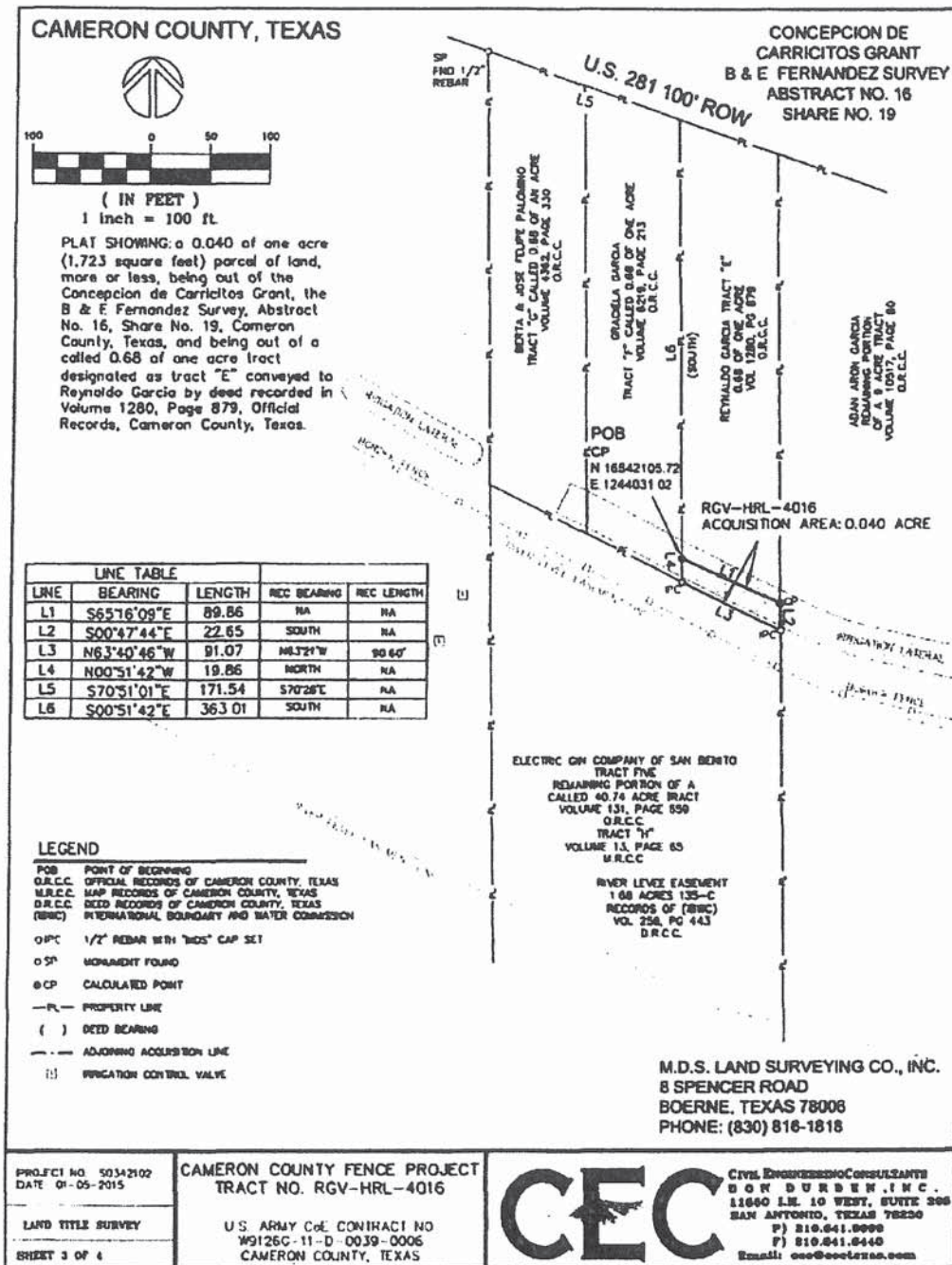
Tract: RGV-HRL-4016

## SCHEDULE "DD"

Tract: RGV-HRL-4016

Owner: Berta Longoria Garcia, et al.

Acres: 0.040



LAND TO BE CONDEMNED

Amendment to Declaration of Taking - 9







## **SCHEDULE "EE" FOR ESTATE TAKEN**

### **FEE, EXCLUDING MINERALS**

Tract: RGV-HRL-4016

Owner: Berta Longoria Garcia, et. al.

The estate taken is fee simple, subject to existing easements for public roads and highways, public utilities, railroads, and pipelines and subject to Easements Appurtenant reserved in Declarations of Taking or granted by the United States of America across lands acquired by the United States for border barrier purposes to provide access to owners of property on the riverside of the border barrier. The estate taken excludes all interests in minerals; in water rights associated with or appurtenant to the land; and in water distribution and drainage systems, provided that any surface rights arising from the excluded interests in water distribution and drainage systems are subordinated to the construction, operation, and maintenance of the IBCW levee and border barrier.

**SCHEDULE "FF"**  
**ESTIMATE OF JUST COMPENSATION**

The total just compensation for the land being taken is TWO THOUSAND TWO HUNDRED DOLLARS AND NO/100 (\$2,200.00), to be deposited herewith in the registry of said Court and disbursed for the use and benefit of the persons entitled therein.

The sum of ONE HUNDRED DOLLARS AND NO/100 (\$100.00) has been deposited with the Court previously and will remain associated with Civ. No. 1:10-cv-00186, separate from the additional monies being deposited with the registry.

**SCHEDULE "GG"**

**NAMES AND ADDRESSES OF INTERESTED PARTIES:**

Berta Longoria Garcia  
P.O. Box 87  
Los Indios, TX 78567  
(Warranty Deed—Volume 857, Page 277)

Tony Yzaguirre, Jr.  
Cameron County Tax Assessor-Collector  
Cameron County Courthouse Admin Building  
964 East Harrison Street  
Brownsville, TX 78522

Cameron County  
964 East Harrison Street  
Brownsville, TX 78522  
(Easements—Volume 256, Page 433 and Volume 280, Page 203)